

### § 1113.19

the party filing it, preferably assembled by subjects, with reference to the pages of the record, if written, or exhibit where the evidence appears. In the event the party elects not to include a separate abstract in his brief, he should give specific reference to the portions of the record, whether transcript or otherwise, relied upon in support of the respective statements of fact made throughout the brief.

(c) *Requested findings.* Each brief should include such requests for specific findings, separately stated and numbered, as the party desires the Board to make.

(d) *Exhibit reproduction.* Exhibits should not be reproduced in the brief, but may be shown, within reasonable limits, in an appendix to the brief. Analysis of such exhibits should be included in the brief where pertinent.

[47 FR 49559, Nov. 1, 1982, as amended at 61 FR 52712, Oct. 8, 1996]

### § 1113.19 Pleadings: part of the record.

Matters of fact that are verified and filed prior to oral hearing and that are not specifically denied constitute evidence and are part of the record. A witness, who would present such evidence, must be made available for cross-examination if a request is reasonably made. This rule does not apply to protests against tariffs or schedules.

[47 FR 49559, Nov. 1, 1982, as amended at 64 FR 53268, Oct. 1, 1999]

### §§ 1113.20–1113.30 [Reserved]

## PART 1114—EVIDENCE; DISCOVERY

### Subpart A—General Rules of Evidence

Sec.

- 1114.1 Admissibility.
- 1114.2 Official records.
- 1114.3 Admissibility of business records.
- 1114.4 Documents in Board's files.
- 1114.5 Records in other Board proceedings.
- 1114.6 Official notice of corroborative material.
- 1114.7 Exhibits.

### Subpart B—Discovery

- 1114.21 Applicability; general provisions.
- 1114.22 Deposition.
- 1114.23 Depositions; location, officer, time, fees, absence, disqualification.
- 1114.24 Depositions; procedures.

### 49 CFR Ch. X (10–1–04 Edition)

1114.25 Effect of errors and irregularities in depositions.

1114.26 Written interrogatories to parties.

1114.27 Request for admission.

1114.28 Depositions, requests for admission, written interrogatories, and responses thereto: inclusion in record.

1114.29 Supplementation of responses.

1114.30 Production of documents and records and entry upon land for inspection and other purposes.

1114.31 Failure to respond to discovery.

AUTHORITY: 5 U.S.C. 559; 49 U.S.C. 721.

SOURCE: 47 FR 49562, Nov. 1, 1982, unless otherwise noted.

### Subpart A—General Rules of Evidence

#### § 1114.1 Admissibility.

Any evidence which is sufficiently reliable and probative to support a decision under the provisions of the Administrative Procedure Act, or which would be admissible under the general statutes of the United States, or under the rules of evidence governing proceedings in matters not involving trial by jury in the courts of the United States, will be admissible in hearings before the Board. The rules of evidence will be applied in any proceeding to the end that necessary and proper evidence will be conveniently, inexpensively, and speedily produced, while preserving the substantial rights of the parties.

[47 FR 49562, Nov. 1, 1982, as amended at 61 FR 52713, Oct. 8, 1996]

#### § 1114.2 Official records.

An official record or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by a deputy, and accompanied with a certificate that such officer has the custody. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public